

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FINJAN, INC.,

Plaintiff,

v.

BLUE COAT SYSTEMS, LLC,

Defendant.

Case No. 15-cv-03295-BLF

**TENTATIVE RULING REGARDING
THE PARTIES' PARTIAL RENEWED
RULE 50(b) MOTIONS FOR
JUDGMENT AS A MATTER OF LAW**

Plaintiff Finjan, Inc. ("Finjan") and Defendant Blue Coat Systems, LLC ("Blue Coat") each filed a partial renewed motion for judgment as a matter of law pursuant to Federal Rule of Civil Procedure 50(b). In light of the fact that the retrial regarding U.S. Patent Nos. 6,154,844 (the "'844 patent") and 8,677,494 (the "'494 patent") is upcoming,¹ the Court is unavailable for hearing prior to January 3, 2018, and all papers may not be submitted until January 5, 2018, the Court hereby provides a tentative ruling on the issues raised in the parties' motions based on the papers submitted as of this date to guide their preparation for the retrial.

Blue Coat's Rule 50(b) motion seeks judgment as a matter of law that there is no legally sufficient evidence to support (1) literal infringement of the '844 and '494 patents, (2) infringement of the '844 and '494 patents under the doctrine of equivalents, (3) willful infringement of the '844 and '494 patents, and (4) worldwide damages on the '844 and '494 patents. *See* ECF 464. The Court is inclined to deny Blue Coat's Rule 50(b) motion as to literal infringement of the '844 and '494 patents, but inclined to grant Blue Coat's Rule 50(b) motion as to infringement of the '844 and '494 patents under the doctrine of equivalents and willful


¹ Finjan asserts claim 15 of the '844 patent and claim 10 of the '494 patent.

1 infringement of the '844 and '494 patents. Further, although the Court is not issuing a tentative
2 ruling on whether Finjan has sufficient evidence to support worldwide damages regarding the '844
3 and '494 patents, the Court advises the parties that it has serious concerns regarding Finjan's
4 evidence under *Microsoft Corp. v. AT & T Corp.*, 550 U.S. 437 (2007).

5 Finjan's Rule 50(b) motion seeks judgment as a matter of law that Blue Coat (1) infringes
6 the '844 and '494 patents, literally or under the doctrine of equivalents, (2) willfully infringes the
7 '844 and '494 patents, and (3) owes damages for infringement of the '844 patent of at least \$29.8
8 million and damages for infringement of the '494 patent of at least \$16.2 million. ECF 469. The
9 Court is inclined to deny Finjan's Rule 50(b) motion in its entirety.

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11 **IT IS SO ORDERED.**

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13 Dated: December 28, 2017

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15 BETH LABSON FREEMAN
16 United States District Judge
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